

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

FORTUNE GROWERS, LLC, a ) Case No.: 07CV2088-JAH  
Nevada limited liability company, )

Plaintiff, ) PRELIMINARY INJUNCTION  
                ) ORDER

VS.

SOUTHERN CITRUS, INC., a California corporation; HANA GIBO, an individual; and SABAH YOUNKHANNA, an individual,

## Defendants

Plaintiff's Motion for Preliminary Injunction under Federal Rule of Civil Procedure 65(a) came before this Court on Wednesday, November 7, 2007 at 10:30 a.m., after proper notice was issued. Counsel for the Plaintiff appeared telephonically. Defendants failed to appear, despite having been properly served with notice of this hearing.

On or about October 31, 2007, Plaintiff commenced the above-entitled action against

1 Southern Citrus, Inc. ("Southern Citrus"), Hana Gibo, and Sabah Youkhanna (collectively  
2 referred to as the "Defendants"), seeking to enforce payment from the statutory trust imposed  
3 by the Perishable Agricultural Commodities Act, 1930, as amended, 7 U.S.C. §499e(c)(2)  
4 ("PACA"). As part of its action, Plaintiff sought injunctive relief against Defendants to enjoin  
5 and restrain them from violating the provisions of PACA and from dissipating assets subject  
6 to the PACA Trust.  
7

8 On or about October 31, 2007, this Court issued a Temporary Restraining Order  
9 enjoining Southern Citrus, its agents, officers, subsidiaries, assigns, banking and financial  
10 institutions, and all persons in active concert or participation with said Defendant, including  
11 Hana Gibo and Sabah Youkhanna, from alienating, dissipating, paying, or assigning any PACA  
12 trust assets, without agreement of the parties or until further order of this Court, or until said  
13 Defendant pays Plaintiff the sum of \$115,266.40 by cashiers' check or certified check.  
14

15 This Court scheduled a hearing for entry of a Preliminary Injunction and ordered the  
16 Plaintiff to serve a copy of the Temporary Restraining Order on Defendants.  
17

18 Plaintiff has served copies of the Temporary Restraining Order on all Defendants.  
19

20 On Wednesday, November 7, 2007 at 10:30 a.m., the hearing on Plaintiff's Motion for  
21 Preliminary Injunction came before this Court.  
22

23 Based upon Plaintiff's pleadings, the Affidavit of Luis Solarte, and the supporting  
24 documents, the Court finds Plaintiff has shown: (1) it is likely to succeed on the merits; (2)  
25 there is a risk of irreparable harm if the injunction is not granted; (3) the balance of hardships  
26 favors issuance of the injunction; and (4) issuance of the injunction is in the public interest.  
27

28 See Roe v. Anderson, 134 F.3d 1400, 1402 (9th Cir. 1998) (identifying the requirements for

1 issuance of a preliminary injunction).

2 Accordingly the Court concludes that a Preliminary Injunction should be issued.

3 For the reasons orally stated by the Court on the record and based upon the foregoing,

4 **IT IS HEREBY ORDERED** that:

- 5 1. Plaintiff's Motion for Issuance of Preliminary Injunction is GRANTED.
- 6 2. Plaintiff's Motion to Consolidate the Trial on the Merits with Hearing on Preliminary  
7 Injunction is DENIED.
- 8 3. Southern Citrus and its agents, officers, subsidiaries, assigns, financial and banking  
9 institutions, and all persons in active concert or participation with them or who receive actual  
10 notice of this Order are enjoined and restrained from dissipating, paying, transferring, assigning  
11 or selling any and all assets covered by or subject to the trust provisions of the PACA without  
12 agreement of the parties or until further order of this Court. Under §499e(c)(2) of PACA, the  
13 assets subject to this Order include all of the assets of Defendant Southern Citrus, including  
14 but not limited to, any and all bank accounts at any and all financial institutions, including  
15 but not limited to those accounts at Wells Fargo Bank, unless Defendants can prove to this  
16 Court that a particular asset is not derived from perishable agricultural commodities,  
17 inventories of food or other products derived from perishable agricultural commodities or  
18 receivables or proceeds from the sale of such commodities or products.
- 19 4. The \$115,266.40 in PACA trust assets belonging to Plaintiff and in the possession  
20 of Defendant shall serve as Plaintiff's security for this injunction as required by Federal Rule  
21 of Civil Procedure 65(c).

5. This Order is binding upon Defendant Southern Citrus, and its officers (including Hana Gibo, and Sabah Youkhanna), agents, servants, employees, banking and financial institutions, attorneys and/or all other persons acting in concert or participating with it who receive actual notice of this Order.

6. This Order shall continue in full force and effect, except upon further Order of this Court.

## IT IS SO ORDERED.

DATED: November 9, 2007

  
John A. Houston